



NMFS Salmon Recovery/4(d) Rule Workshops
September 2000

**Assessment Checklist to Identify Potential ESA Liabilities and How
Programs Can Contribute to Protected Species Recovery**

Note: This checklist has been developed by NMFS for use by cities, counties, interested parties, and individuals. It is not a legally binding document and it is likely to be refined over time as needed.

The following checklist of activities will be used in the NMFS Recovery Workshops to help participants identify and evaluate the actions they carry out or permit. This will enable participants to identify potential ESA liabilities and how their programs can contribute to recovery efforts. It will identify the activities that may need to be modified to reduce or avoid ESA liability, or that may require an ESA permit. It also provides workshop participants with a "take home" assessment tool to evaluate and identify potential ESA liabilities that can be easily shared with co-workers, elected officials and the public. The list can be used by different entities, businesses, jurisdictions or individuals. It is meant to be flexible and can be expanded or adjusted to adapt to different needs and situations.

This assessment process is intended to be accomplished in three phases. The first phase establishes the condition/status of the resource within your action area and identifies programs or actions which may impact salmon. The second phase of the assessment process consists of a detailed analysis of programs or permitted actions with respect to ESA protection which may be applicable within the action area. The final phase of the assessment provides an opportunity to select an appropriate ESA pathway to secure appropriate salmon protection strategies. This assessment is based upon the following key questions:

1. What programs and actions related to these programs are carried out by the jurisdiction, entity, business or individual? List the programs and actions.
2. What authorities does the jurisdiction, entity, business or individual have related to these programs and actions? List the authorities.
3. Based on these lists, is there a strong likelihood of any of these actions (either directly or indirectly) adversely effect habitats (e.g. impair breeding, spawning, rearing, migrating, feeding, sheltering) or might they kill or injure the protected species? Or do these actions have negligible or insignificant adverse effects?
4. If yes to the first question, can the program be feasibly modified to avoid adverse effects and take? How can these actions be modified to support salmon recovery?
5. If infeasible, what is the ESA route to avoid "legal" or "taking" liability and provide for the conservation of threatened salmon and steelhead?

The following list of activities is a starting point to evaluate how the programs carried out by an entity, jurisdiction, business or individual may impact threatened salmon, steelhead and their habitat. Complete the following matrix as needed.